

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

SHARIF KING,

Plaintiff,

-against-

W. GARCIA,

Defendant.

**ORDER OF SERVICE**

21-CV-09118 (PMH)

PHILIP M. HALPERN, United States District Judge:

Plaintiff, currently incarcerated in Great Meadow Correctional Facility, brings this *pro se* action under 42 U.S.C. § 1983, alleging that, while he was incarcerated in Downstate Correctional Facility, Defendant failed to protect him. The Court granted, by order dated November 4, 2021 (Doc. 4), Plaintiff's request to proceed without prepayment of fees, that is, *in forma pauperis* (IFP).<sup>1</sup>

The Court, on November 9, 2021, issued an Order of Service using an address for Defendant W. Garcia at Downstate Correctional Facility. (Doc. 6). The U.S. Marshals Service attempted to serve Garcia at that address on February 25, 2022 and again on March 11, 2022, but both attempts were unsuccessful. (Docs. 11, 12). The Court, on April 8, 2022, issued an Order pursuant to *Valentin v. Dinkins*, 121 F.3d 72, 76 (2d Cir. 1997), directing the New York State Attorney General to identify Garcia by name and provide an address for service. (Doc. 20). The Attorney General filed a letter on June 16, 2022, identifying Garcia to most likely be New York State Department of Corrections and Community Supervision C.O. William Garcia Jr., Badge No.

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<sup>1</sup> Prisoners are not exempt from paying the full filing fee even when they have been granted permission to proceed IFP. *See* 28 U.S.C. § 1915(b)(1).

58039 (“Defendant”). (Doc. 24). The Attorney General also provided an address for service for Defendant at Sullivan Correctional Facility. (*Id.*).

The Court hereby deems the Complaint amended to identify C.O. William Garcia, Jr., Badge No. 58039 as the “W. Garcia” Defendant in this action.

## **DISCUSSION**

### **A. Service on Defendant**

Because Plaintiff has been granted permission to proceed IFP, Plaintiff is entitled to rely on the Court and the U.S. Marshals Service to effect service. *Walker v. Schult*, 717 F.3d 119, 123 n.6 (2d Cir. 2013); *see also* 28 U.S.C. § 1915(d) (“The officers of the court shall issue and serve all process . . . in [IFP] cases.”); Fed. R. Civ. P. 4(c)(3) (the court must order the Marshals Service to serve if the plaintiff is authorized to proceed IFP)).

To allow Plaintiff to effect service on Defendant through the U.S. Marshals Service, the Clerk of Court is instructed to fill out a U.S. Marshals Service Process Receipt and Return form (“USM-285 form”) for Defendant. The Clerk of Court is further instructed to issue a summons and deliver to the Marshals Service all the paperwork necessary for the Marshals Service to effect service upon Defendant.

Plaintiff must notify the Court in writing if his address changes, and the Court may dismiss the action if Plaintiff fails to do so.

### **B. Local Civil Rule 33.2**

Local Civil Rule 33.2, which requires defendants in certain types of prisoner cases to respond to specific, court-ordered discovery requests, applies to this action. Those discovery requests are available on the Court’s website under “Forms” and are titled “Plaintiff’s Local Civil Rule 33.2 Interrogatories and Requests for Production of Documents.” Within 120 days of the date

of this order, Defendant must serve responses to these standard discovery requests. In the responses, Defendant must quote each request verbatim.<sup>2</sup>

### CONCLUSION

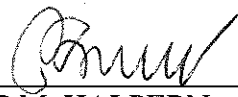
The Clerk of Court is instructed to issue a summons, complete the USM-285 forms with the address for Defendant, and deliver all documents necessary to effect service to the U.S. Marshals Service. The Clerk of Court is further requested to modify the Defendant's name on the docker to reflect the identification of C.O. William Garcia, Jr., Badge No. 58039.

Local Civil Rule 33.2 applies to this action.

The Clerk of Court is directed to mail a copy of this order to Plaintiff, together with an information package.

### SO ORDERED:

Dated: White Plains, New York  
June 17, 2022

  
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PHILIP M. HALPERN  
United States District Judge

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<sup>2</sup> If Plaintiff would like copies of these discovery requests before receiving the responses and does not have access to the website, Plaintiff may request them from the Pro Se Intake Unit.

**DEFENDANT AND SERVICE ADDRESS**

William Garcia, Badge No. 58039  
Correction Officer  
Sullivan Correctional Facility  
325 Riverside Drive  
Fallsburg, New York 12733